STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of SKYY ZAMARREA MACK,
Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DAMEIA CHERRELL BRANNER,

Respondent-Appellant

and

SCOTTIE MACK,

Respondent.

UNPUBLISHED
February 28, 2006

No. 265058
Oakland Circuit Court
Family Division
LC No. 05-702393-NA

Before: Cooper, P.J., and Jansen and Markey, JJ.

PER CURIAM.

Respondent appeals by right from an order terminating her parental rights to her daughter pursuant to MCL 712A.19b(3)(g), (j), (i) and (l). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

First, respondent argues that her constitutional right to due process was violated by the failure to hold a permanency planning hearing within twenty-eight days of the adjudication. Since respondent's rights to two other children had been terminated and the court had decided that reasonable efforts to avoid removal from respondent's home were not required, MCR 3.976(B) necessitated that the permanency planning hearing be held within this time frame. The purpose of a permanency planning hearing is "to review the status of the child and the progress being made toward the child's return home or to show why the child should not be placed in the permanent custody of the court." MCL 712A.19a(3). At the initial adjudication hearing on March 7, 2005, which also was the trial on the petition to terminate respondent's parental rights, the court determined that it should do so unless it would not be in the child's best interests. Under MCR 3.976(B), a permanency planning hearing should have been scheduled for a date

before April 4, 2005. A best interests hearing was scheduled for April 29, 2005, which was twice adjourned.

"There is no question that parents have a due process liberty interest in caring for their children and that child protective proceedings affect that liberty interest." *In re CR*, 250 Mich App 185, 204; 646 NW2d 506 (2001). Rudimentary due process requires only "'(i) timely written notice detailing the reasons for proposed administrative action; (ii) an effective opportunity to defend by confronting any adverse witnesses and by being allowed to present in person witnesses, evidence, and arguments; (iii) a hearing examiner other than the individual who made the decision or determination under review; and (iv) a written, although relatively informal, statement of findings.'" *Bundo v Walled Lake*, 395 Mich 679, 696; 238 NW2d 154 (1976), quoting *Sponick v Detroit Police Dep't*, 49 Mich App 162, 189; 211 NW2d 674 (1973)(citations omitted). Although the best interests hearing, which in this context was the hearing showing "why the child should not be placed in the permanent custody of the court," was delayed, respondent has not established that this violation rose to the level of a constitutional deprivation of procedural due process.

Next, respondent argues that the record does not substantiate the finding that termination of rights was in the child's best interests. She bases this on self-proclaimed progress with her drug addiction and a claim of involvement in a twelve-step group, as well as a psychologist's opinion that termination would be premature until a parent-agency agreement with participation in agency services was attempted. Given respondent's repeated failure to appear for scheduled drug screens, her persistent drug problem despite formal substance abuse treatment, and her lack of knowledge regarding the twelve steps despite claims of being involved in a twelve-step program, we find no clear error in the trial court's decision that termination would be in the child's best interests. *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003).

We affirm.

/s/ Jessica R. Cooper
/s/ Kathleen Jansen
/s/ Jane E. Markey